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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	3

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.	Applicant(s)
09/487,979	Skurkovich et al
Examiner	**Group Art Unit**
Ungar	1642

X Responsive to communication(s) filed on *Nov 30, 2000* .

☐ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire *one* month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

X Claim(s) *33-41* is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

X Claims *33-41* are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

1. Claims 33-41 are pending in the application and are currently under prosecution.

2. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

Group I. Claims 33-34, 37, 38 are drawn to a method of treating acquired immunodeficiency disease with a plurality of autoimmune inhibitors classified in Class 424, Subclass 130.1 and Class 514, subclass 2.

Group II. Claims 33-35, 37, 38 are drawn to a method of treating acquired immunodeficiency disease with a plurality of autoimmune inhibitors classified in Class 424, Subclass 130.1 and Class 514, subclass 2.

Group III. Claim 33-38 are drawn to a method of treating acquired immunodeficiency disease with a single gamma interferon autoimmune inhibitor classified in Class 424, Subclass 130.1 and Class 514, subclass 2.

Group IV. Claim 33 and 39 are drawn to a method of treating acquired immunodeficiency disease with a single HLA class II antigen autoimmune inhibitor classified in Class 424, Subclass 130.1 and Class 514, subclass 2.

Group V. Claim 40 is drawn to a method of treating acquired immunodeficiency disease with a single gamma interferon autoimmune inhibitor classified in Class 424, Subclass 130.1 and Class 514, subclass 2.

Group VI. Claim 41 is drawn to a method of treating acquired immunodeficiency disease with a single HLA class II antigen autoimmune inhibitor classified in Class 424, Subclass 130.1 and Class 514, subclass 2.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I-III are materially distinct methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Group I is further subject to election of a single disclosed species.

Claim 33 is generic to a plurality of disclosed patentably distinct species comprising a plurality of combinations of autoimmune inhibitors. Applicant is required to elect a specified group of autoimmune inhibitors for examination from claims 33 and 34.

6. Group II is further subject to election of a single disclosed species.

Claim 33 is generic to a plurality of disclosed patentably distinct species comprising a plurality of combinations of autoimmune inhibitors. Applicant is required to elect a specified group of autoimmune inhibitors for examination from claims 33-35.

7. Group III is further subject to election of a single disclosed species.

Claim 33 is generic to a plurality of disclosed patentably distinct species comprising a plurality of combinations of autoimmune inhibitors. Applicant is

required to elect a specified group of autoimmune inhibitors for examination from claims 33-36.

8. Group IV is further subject to election of a single disclosed species.

Claim 33 is generic to a plurality of disclosed patentably distinct species comprising a plurality of combinations of autoimmune inhibitors. Applicant is required to elect a specified group of autoimmune inhibitors for examination from claims 33 and 39.

9. Group V is further subject to election of a single disclosed species.

Claim 40 is generic to a plurality of disclosed patentably distinct species comprising gamma interferon autoimmune inhibitors wherein the inhibitors have different structures and therefore different mechanisms of action wherein the inhibitors are (a) antibody to gamma interferon, (b) antibody to gamma interferon receptor, (c) gamma interferon receptor, all of claim 40.

10. Group VI is further subject to election of a single disclosed species.

Claim 41 is generic to a plurality of disclosed patentably distinct species comprising HLA class II antigen autoimmune inhibitors wherein the inhibitors have different structures and therefore different mechanisms of action wherein the inhibitors are (a) antibody to HLA class II antigen, (b) antibody to HLA class II antigen receptor, (c) HLA class II antigen receptor, all of claim 41.

11. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is

the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

12. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

13. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

14. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is

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